

MELINDA HAAG (CSBN 132612)  
 United States Attorney  
 JOANN M. SWANSON (CSBN 88143)  
 Chief, Civil Division  
 MELANIE L. PROCTOR (CSBN 228971)  
 Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
 San Francisco, California 94102-3495  
 Telephone: (415) 436-6730  
 FAX: (415) 436-7169  
 Melanie.Proctor@usdoj.gov

Attorneys for Defendant

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

AMERICAN SMALL BUSINESS LEAGUE,	)	No. C 10-1459 SBA
	)	
Plaintiff,	)	STIPULATION AND SETTLEMENT, and
	)	ORDER
v.	)	
	)	
UNITED STATES SMALL BUSINESS ADMINISTRATION,	)	
	)	
Defendant.	)	

Plaintiff American Small Business League (“Plaintiff”) and Defendant United States Small Business Administration (“Defendant”), by and through their undersigned counsel, hereby enter into this Stipulation and [Proposed] Order Re Settlement and Dismissal (“Stipulation”) as follows:

1. Defendant shall pay to Plaintiffs the amount of seven thousand U.S. dollars (\$7,000.00) in full and complete satisfaction of Plaintiff’s claims for attorneys’ fees, costs, and litigation expenses under the Freedom of Information Act (“FOIA”) in the above-captioned matter. This payment shall constitute full and final satisfaction of any and all of Plaintiff’s claims for attorneys’ fees, costs, and litigation expenses in the above-captioned matter, and is inclusive of any interest. Payment of this money will be made by electronic funds transfer, and counsel for Plaintiff will provide the necessary information to counsel for Defendant to effectuate the transfer. Payment shall be made within thirty (30) days of the date this Stipulation is signed by all counsel and

1 Plaintiff's counsel has provided the necessary information for the electronic funds transfer.

2       2. Upon the execution of this Stipulation, Plaintiff hereby releases and forever  
3 discharges Defendant, and its successors, the United States of America, and any department, agency,  
4 or establishment of the United States, and any officers, employees, agents, successors, or assigns  
5 of such department, agency, or establishment, from any and all claims and causes of action that  
6 Plaintiff asserts or could have asserted in this litigation, or which hereinafter could be asserted by  
7 reason of, or with respect to, or in connection with, or which arise out of, the FOIA request on which  
8 this action is based or any other matter alleged in the Complaint, including but not limited to all past,  
9 present, or future claims for attorneys' fees, costs, or litigation expenses in connection with the  
10 above-captioned litigation.

11       3. The provisions of California Civil Code Section 1542 are set forth below:

12       "A general release does not extend to claims which the creditor does not know or  
13 suspect to exist in his favor at the time of executing the release, which if known by  
him must have materially affected his settlement with the debtor."

14 Plaintiff, having been apprised of the statutory language of Civil Code Section 1542 by its attorneys,  
15 and fully understanding the same, nevertheless elects to waive the benefits of any and all rights it  
16 may have pursuant to the provision of that statute and any similar provision of federal law. Plaintiff  
17 understands that, if the facts concerning injuries or liability for damages pertaining thereto are found  
18 hereinafter to be other than or different from the facts now believed by it to be true, the Agreement  
19 shall be and remain effective notwithstanding such material difference.

20       4. Execution of this Stipulation and entry by this Court shall constitute dismissal of this  
21 case with prejudice pursuant to Fed. R. Civ. P. 41(a).

22       5. The parties acknowledge that this Stipulation is entered into solely for the purpose  
23 of settling and compromising any remaining claims in this action without further litigation, and it  
24 shall not be construed as evidence or as an admission on the part of Defendant, the United States,  
25 its agents, servants, or employees regarding any issue of law or fact, or regarding the truth or validity  
26 of any allegation or claim raised in this action, or as evidence or as an admission by the Defendant  
27 regarding Plaintiff's entitlement to attorneys' fees and other litigation costs under the FOIA. This  
28 Stipulation shall not be used in any manner to establish liability for fees, amounts, or hourly rates

1 in any other case or proceeding.

2 6. This Stipulation is binding upon and inures to the benefit of the parties hereto and  
3 their respective successors and assigns.

4 7. If any provision of this Stipulation shall be held invalid, illegal, or unenforceable, the  
5 validity, legality, and enforceability of the remaining provisions shall not in any way be affected or  
6 impaired thereby.

7 8. This Stipulation shall constitute the entire agreement between the parties, and it is  
8 expressly understood and agreed that this Stipulation has been freely and voluntarily entered into  
9 by the parties hereto. The parties further acknowledge that no warranties or representations have  
10 been made on any subject other than as set forth in this Stipulation.

11 9. The persons signing this Stipulation warrant and represent that they possess full  
12 authority to bind the persons on whose behalf they are signing to the terms of the Stipulation.

13 10. This Stipulation may not be altered, modified or otherwise changed in any respect  
14 except in writing, duly executed by all of the parties or their authorized representatives.

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

11. This Stipulation may be executed in counterparts and is effective on the date by which both parties' counsel have executed the Stipulation. It may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement. Facsimiles of signatures shall have the same effect as originals.

SO STIPULATED AND AGREED this 4th day of March, 2011.

Dated: March 4, 2011

Respectfully submitted,

MELINDA HAAG  
United States Attorney

/s/  
MELANIE L. PROCTOR<sup>1</sup>  
Assistant United States Attorney  
Attorneys for Defendants

Dated: March 3, 2011

/s/  
ROBERT BELSHAW  
Attorney for Plaintiff

### ORDER

Upon stipulation of the parties and good cause appearing, IT IS HEREBY ORDERED that this action is dismissed with prejudice on the terms and conditions described in the above Stipulation between the parties. The case management conference scheduled for March 17, 2011 is hereby VACATED. The clerk shall close the file.

Dated: 3/7/11

  
SAUNDRA BROWN ARMSSTRONG  
United States District Court

---

<sup>1</sup>I, Melanie L. Proctor, hereby attest that I obtained the concurrence in the filing of this document of all signatories whose signatures are represented by an /s/.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28